



STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
TRENTON

March 19, 1973

WILLIAM T. CAHILL
GOVERNOR

The Honorable Casper W. Weinberger, Secretary
Department of Health, Education and Welfare
Washington, D.C.

My dear Mr. Secretary:

Since you and Under Secretary Carlucci have solicited reaction from the governors on the proposed social services regulations as published in the Federal Register on February 16, I am submitting to you my comments for your consideration.

As they now stand, these proposed regulations present a serious threat to the effective delivery of sound social services to the needy citizens of New Jersey and are, therefore, of great concern to the State Government and to other public and private bodies providing social services within New Jersey. Upon careful review of the proposed regulations, we feel that they would result in sharp curtailment and distortion of certain needed social services, among which are day care, foster care services, family planning, services to the mentally retarded, and protective services for children. While we applaud the fact that the major thrust of the proposed regulations is toward improved accountability and better program management, we believe that unless certain provisions are modified or eliminated these regulations would have a profoundly deleterious effect upon our social service program.

Five provisions of the proposed regulations concern us most. Discussion of each follows, along with recommended changes that would enable New Jersey to operate an effective social service program within the limits imposed by sound fiscal and managerial policies.

1. Use of Private Matching Funds:

The proposed regulations would prohibit utilization of privately donated funds for matching Federal social service dollars. Such a prohibition would force the State to cut back on over 85 existing service contracts supported in part by private donations. In addition to program terminations it would cause, this prohibition would make it extremely difficult for the State to promote effective cooperation between private and public social service agencies, as we have vigorously done over the past year with full encouragement from HEW. Only through a strong public-private partnership is it possible for the State to build an effective service network capable of meeting the many and varied needs of our citizenry.

I recommend, therefore, that Section 221.62 prohibiting use of private donations as matching be amended specifically to allow use of private donations as non-Federal matching. It should be possible to prevent abuse of this provision simply by defining the terms under which private matching may be achieved.

2. Limitation on Potential Recipient Eligibility:

The proposed regulations sharply limit the definition of "potential recipient" by reducing both income and time limits applied to determination of this status. Under existing regulations a person or family likely to become eligible for financial assistance payments within a five-year period is determined, by time limitation, to fall within the "potential" category. Because the limit of five years is too broad and could lead to program abuses, the intention to tighten up on this provision is sensible. To reduce it to six months, however, is far too restrictive and might well lead to termination of service before a client has achieved the goal of such service.

Of even greater concern to us is the provision contained in Section 221.6 that would limit Federal Financial Participation to expenses incurred in providing eligible services to persons or families having incomes that do not exceed 133 1/3 percent of the state's financial assistance payment level: approximately \$5,100 for a family of four, by our interpretation of the proposed regulations.

Such a provision, I believe, runs completely counter to a sound public welfare policy directed at promoting client self-sufficiency and self-support. If New Jersey were to operate its service program under the 133 1/3 percent provision, in many cases we would have to terminate services before a person or family could assume complete self-sufficiency. This would almost certainly result in renewed or increased dependence upon public financial assistance, at a greater cost to society.

It is my strong belief that the proposed time and income limitations on "potential recipients" should be broadened by establishing a time period of one year instead of six months and by raising the eligible income level from 133 1/3 percent of the State's financial assistance payment level to 200 percent of that level. This would allow New Jersey to place income eligibility at approximately \$7,600 for a family of four, with the effect of directing services to the most needy while avoiding premature service termination. We believe this figure to be reasonable in light of the latest Bureau of Labor Statistics family budget estimates, which place a middle-standard family budget for the New York area at \$12,585.

3. Service Goals:

Section 221.8 provides that Federal reimbursement will be available for services only when an individual client service plan has been prepared, and relates all services provided to two specific goals: self-support and self-sufficiency. While we recognize the need for an individual client service plan, it disturbs us that only these two goals are specified. In New Jersey, we view social services not only as a means of fostering individual self-sufficiency and self-support, but also as a way of reducing institutional dependency and the attendant public expenditure in cases where individuals will never have the capacity to support themselves fully. A case in point is the severely regarded child who can be taught many aspects of self care through well delivered services but who may never be able to function as a self-dependent individual in a competitive society.

While we are aware that certain provisions of HR 1 appear to authorize Medicaid reimbursement for social service expenditures in institutional settings, there is sufficient uncertainty surrounding these provisions to warrant concern. If adequate provision for such reimbursement is not forthcoming and if the proposed goal limits are left as they are in the regulations under discussion, the net effect will be to encourage states to operate incomplete social service programs to the detriment of our most needy citizens.

I strongly recommend, therefore, that you re-examine the proposed regulations in the context of the provisions of HR 1 for Medicaid service support, so as to make certain that Federal Financial Participation will be available to states for social service programs aimed at the goal of self-care in both institutional and community-based settings.

4. Judicial Determination Required for Foster Care Services:

The proposed regulations provide for Federal Financial Participation in the cost of foster care services only if the placement results from a judicial determination. New Jersey's volunteer placement foster care program gives parents the opportunity to recognize their own incapacity to provide directly for their children and encourages them to work cooperatively with our children's service agency to arrange sound alternative care before severe child neglect occurs and is brought to public attention through criminal justice proceedings.

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The provisions of Section 221.9, as they now stand, would penalize New Jersey financially for providing a service which, in our judgment, is more humane and which reduces the public expense of costly judicial intervention. Accordingly, I recommend that Section 221.9 be amended to provide for Federal reimbursement of the cost of social services that support a program of foster care, whether placement is made through the judicial process or voluntarily through administrative arrangement. Proper administrative review procedures in our children's service agency will insure minimal abuse of voluntary placement without imposing an undue burden on the courts.

5. Limitation on Protective Services:

The proposed regulations make protective services mandatory for AFDC recipients, and, accordingly, the cost of providing such services is reimbursable in part by HEW. We agree that these services should be mandatory and are actively providing them to a wide variety of clients of various economic means. The proposed regulations, however, would sharply increase costs to the state of providing such services by limiting Federal reimbursement to just AFDC cases. Presently, reimbursement to New Jersey also covers protective services for both former and potential recipients.

This proposed regulation appears to ignore the fact that a protective service is an instrument for moving a portion of our welfare population from dependency to independence and self-support; nor does it acknowledge that this movement rarely occurs in a neat sequence, allowing for the termination of protective services at the time the client leaves AFDC. The effect of this proposed regulation would be, therefore, to encourage states like New Jersey to terminate protective services before termination is actually warranted. I recommend that this proposed regulation be changed to allow for Federal reimbursement of the costs of protective services for all persons in need of such services who fall into the categories of former, current or potential recipients of financial assistance.

In responding to your request for comments it was my intention to offer constructive criticism of the proposed social service regulations. I trust that this purpose has been accomplished in the preceding paragraphs. The matter is of real consequence to us, for we believe that if these regulations were promulgated as written, New Jersey and other similar states would be deterred from conducting sound and efficient social service programs aimed at reducing individual dependence upon public welfare and costly institutional care. In addition, my staff calculates that the proposed regulations would have the effect of cutting off approximately \$15 million, nearly one-third of the HEW social service funds which currently flow to New Jersey, and would make it impossible for us to attract more than a small portion of the social service money allocated to this State in the proposed HEW fiscal 1974 budget.

Secretary Weinberger

- 4 -

March 19, 1973

Because the proposed regulations, even as modified by my recommendations, would have a severe fiscal and programmatic impact on New Jersey, I am concerned that you give careful consideration to a phased adoption of the major provisions of the regulations so as to enable us to make a smooth transition to the new program.

I would appreciate receiving your reaction to these comments and recommendations, and I am certain that we can work together to modify the proposed regulations so that they will enable us to achieve our shared objective, which is to provide sound and efficient social services for those who are most in need of such services.

Sincerely yours,

William T. Cahill

WILLIAM T. CAHILL
Governor